

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LINE CONSTRUCTION BENEFIT FUND,)
A HEALTH AND WELFARE FUND,)
Plaintiff,)
v.) NO. 05C 6279
HI-VOLT ELECTRIC, INC., a Florida) Judge Moran
Corporation,) Mag. Judge Ashman
Defendant.)

**MOTION TO VACATE ORDER OF DISMISSAL, TO REINSTATE ACTION,
AND FOR ENTRY OF JUDGMENT**

NOW COME the Plaintiff and moves this Honorable Court to vacate Order of Dismissal entered on February 3, 2006, a copy of which is attached hereto as Plaintiff's Exhibit "A", and to reinstate Plaintiff's cause of action instanter, and for entry of judgment against the Defendant.

In support of Plaintiff's Motion, Plaintiff states as follows:

- 1) That pursuant to Settlement Agreement, Motion to Dismiss and Stipulation of Dismissal, executed by the parties and filed with the Court on January 19, 2006, copies of which are attached hereto as Plaintiff's Exhibit "B" and "C" and "D", the parties agreed to a dismissal of the pending action.
- 2) That the parties subsequently executed a First Amended Settlement Agreement, Plaintiff's Exhibit "E."

3) That notwithstanding the provisions of the First Amended Settlement Agreement, specifically paragraph 2 thereof, the Defendant has failed to remit any payments since August 18, 2006.

WHEREFORE, in accordance with the provisions of the Order of Dismissal, Exhibit "A", Plaintiff prays that the Order of Dismissal be vacated instanter, Plaintiff's cause of action be reinstated, and that judgment enter in favor of Plaintiff and against the Defendant in the amount of \$45,086.35, as and for the outstanding delinquencies calculated pursuant to the First Amended Settlement Agreement, which amount does not include any current delinquencies which may be due.

That Plaintiff also prays that judgment enter for Plaintiff's attorneys' fees and costs incurred as a result of the Defendant's non-compliance with the provisions of the parties' Stipulation to Dismiss.

/s/ Robert B. Greenberg

Asher, Gittler, Greenfield & D'Alba, Ltd.
200 West Jackson Boulevard
Suite 1900
Chicago, Illinois 60606
(312) 263-1500
IL ARDC#: 01047558

Dated: February 6, 2007